

**REMARKS**

Applicants' undersigned attorney thanks the Examiner for his comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-44 are pending.

**Amendment to the Claims**

Claims 1-44 have been examined, with no claims being allowed. Claims 1, 8-14, 21-27, and 37-42 have been amended. Claims 7, 20, 36, 43, and 44 have been canceled.

Applicants have amended Claims 1, 14, and 27 to include the limitations of Claims 7, 20, and 36, respectively. Applicants have further amended Claims 1 and 14 to include the limitations of Claims 43 and 44, respectively. Therefore, Applicants respectfully request cancellation of Claims 7, 20, 36, 43, and 44. Support for the "disposable" limitation added to Claims 1, 14, and 27 is provided at page 6, lines 5-6.

Applicants have amended Claims 8-13, 21-26, and 37-42 to correspond with the antecedent basis in the amended independent claims from which these claims depend.

No new matter has been added by this Amendment. No additional fee is required because the number of independent claims remains unchanged and the total number of claims has been reduced.

**Claim Rejections - 35 U.S.C. §102****A. Van Heusen**

The rejection of Claims 1-11 and 13 under 35 U.S.C. §102(b) as being anticipated by Van Heusen (U.S. Patent 1,638,073) is respectfully traversed.

Van Heusen discloses a two-part fastening device wherein a projecting element having a relatively rough contact surface is configured to fit into a receiving element having a contact surface that engages with the contact surface of the projecting element.

For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. Van Heusen does not disclose each and every element or limitation of Claim 1.

Applicants' invention as recited in independent Claim 1 requires that the fastening system be incorporated within a disposable absorbent article. The fastening system in Van Heusen can be incorporated within a number of durable, non-absorbent garments such as belts, shoes, gaiters, gloves, spats, garters, and girdles (Page 3, lines 51-56). Van Heusen fails to disclose any disposable absorbent article applications.

Applicants' invention as recited in independent Claim 1 further requires that the component having a cavity therein must include a part that can be lifted and folded back by at least about 90 degrees. Van Heusen discloses a component having a cavity therein, but fails to disclose any ability of a part of the same component to be lifted and folded back by at least about 90 degrees. In fact, Van Heusen discloses that the walls of the pocket forming the cavity are normally in close spaced relation and the construction and material used should be such that any tendency of the walls to spread apart (beyond the point necessary to admit the projecting element) will be minimized (Page 2, lines 103-109). Thus, Van Heusen teaches away from the receiving element having any part that can be lifted and folded back by 90 degrees or more.

For at least the reasons presented above, Applicants respectfully submit that amended Claim 1 is not anticipated by Van Heusen. Because Claims 2-11 and 13 depend from amended Claim 1, these claims are also not anticipated by Van Heusen. Thus, Applicants respectfully request withdrawal of this rejection.

**B. Armour, II**

The rejection of Claims 27 and 30-35 under 35 U.S.C. §102(b) as being anticipated by Armour, II (U.S. Patent 5,136,759, hereinafter "Armour") is respectfully traversed.

Armour discloses a two-part fastening device wherein one part includes two flaps with hook fasteners attached to an inner surface of each flap. A

second part includes a length of web material with loop fasteners on both sides. The second part can be fastened between the flaps of the first part.

As mentioned above, for a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. Armour does not disclose each and every element or limitation of amended Claim 27.

Armour fails to disclose a disposable absorbent article comprising a fastening system. Instead, the fastening device in Armour is durable and is intended for securing items to more stationary objects, such as securing the sails of a sailboat to the boom, installing soccer nets, securing cargo on car top carriers or in the beds of pickup trucks, or bundling awkward or cumbersome items together, such as assorted lines, hoses and power cords along the side of a boat or dock (Abstract; Col. 2, lines 33-35; Col. 3, lines 63-67; Col. 4, lines 53-59; Col. 5, lines 42-45; Col. 6, lines 13-16).

Additionally, Applicants' invention as recited in independent Claim 27 requires a first portion of the female component to be attached to a second portion of the female component to form a cavity. As explained on page 4, lines 14-15, and page 7, lines 1-5, of the specification of the present invention, and shown in Fig. 1, the cavity is defined as "a pocket-like receptacle or a hollow area in which an object can be inserted," with a top surface of the cavity attached to a bottom surface of the cavity along one or more edges to form an opening into the cavity between the unattached edges.

Armour does not disclose a cavity or a pocket-like receptacle or a hollow area in which an object can be inserted, but instead shows that the two flaps are attached to one another along only one edge. Thus, the counterpart piece cannot be slid into place between the two flaps but rather must be aligned with each flap individually. By forming a cavity, as taught in the present invention, the counterpart component can be easily slid into the cavity for one-step connection. This easy-fastening feature is particularly suitable for use on garments for children because the fastening can be accomplished quickly and remains securely fastened.

For at least the reasons presented above, Applicants respectfully submit that amended Claim 27 is not anticipated by Armour. Because Claims 30-35

depend from amended Claim 27, these claims are also not anticipated by Armour. Thus, Applicants respectfully request withdrawal of this rejection.

### **Claim Rejections - 35 U.S.C. §103**

#### **A. Van Heusen**

The rejection of Claims 14-24, 26, and 44 under 35 U.S.C. §103(a) as being unpatentable over Van Heusen is respectfully traversed.

As explained above, Van Heusen fails to disclose any disposable absorbent article applications. Instead, Van Heusen discusses the applicability of the fastener therein for use on garments that are laundered, and the use of the fastener therein in place of buttons and buttonholes. Additionally, Van Heusen teaches away from the receiving element having any part that can be lifted and folded back by 90 degrees or more.

There is no suggestion or motivation, either in Van Heusen or in the knowledge generally available to one of ordinary skill in the art, to modify Van Heusen to apply to disposable absorbent articles or to include a part of the receiving element that can be lifted and folded back by 90 degrees or more. Such limitations are not disclosed in or suggested by Van Heusen. Consequently, based on Van Heusen, there is no reasonable expectation of success in achieving an absorbent garment having a fastening system as claimed by Applicants.

For at least the reasons given above, Applicants respectfully submit that the teachings of Van Heusen fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

#### **B. Van Heusen in view of Almo**

The rejection of Claims 27-40, 42, and 43 under 35 U.S.C. §103(a) as being unpatentable over Van Heusen in view of Almo (U.S. Patent 6,308,875) is respectfully traversed.

As pointed out by the Examiner, Van Heusen does not specifically disclose at least a part of a loop component that can be lifted and folded back at least 90 degrees. In fact, as explained above, Van Heusen *teaches away* from a receiving

element within a fastening system having any part that can be lifted and folded back by 90 degrees or more. Additionally, Van Heusen fails to disclose or suggest any disposable absorbent article applications.

Almo discloses a storage pack that may be either disposable or non-disposable. For ease of cleaning and sterilization, non-disposable storage packs may be designed to allow the front and back panels 12, 14 to be partially or completely detached from one another along at least one and preferably both of the vertical seams 16, 18 (Col. 9, lines 63-67). In contrast, disposable storage packs are preferably formed at least in part by joining the front and back panels 12, 14 *permanently* along the vertical pocket seams, e.g., seams 16, 18, 88, 90 and bottom seam 19 (Col. 11, lines 39-44). Thus, Almo teaches away from using refastenable seams in disposable articles.

The Examiner suggests that it would have been obvious to modify the fastener of Van Heusen to include the storage pack as taught by Almo to provide a new refastenable fastener allowing quick disengagement for access to an object(s) stored when desired by a user. There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the teachings of Van Heusen with the teachings of Almo. Van Heusen is directed to a fastening device for use on such articles as belts, shoes, gaiters, gloves, spats, garters, and girdles. The fastening device includes a projecting element that is adapted to be inserted in a receiving element, and is a suitable replacement for buttons and buttonholes. In contrast, Almo is directed to a storage pack that may be either disposable or non-disposable, with the non-disposable storage pack including seams that may be refastenable. The inclusion of the Almo storage pack in the Van Heusen fastener is an illogical concept because the Almo storage pack includes a pocket designed for insertion of surgical tools, not for the insertion of fastening components, thus the combination of a pocket per se with the Van Heusen fastener would fail to disclose or suggest Applicants' invention.

Applicants' claims are not directed to a storage device, but instead are directed to a disposable absorbent article including a fastening system, wherein the fastening system includes a hook or loop component that forms a cavity and a

corresponding loop or hook component that fits into the cavity. Even if the teachings of Van Heusen and Almo were combined, there is no reasonable expectation for the proposed combination to result in a disposable absorbent article including a fastening system, wherein the fastening system includes a hook or loop component that forms a cavity and a corresponding loop or hook component that fits into the cavity. More particularly, neither Van Heusen nor Almo, either alone or in combination, discloses or suggests a disposable absorbent article in combination with a hook-and-loop fastening system. Furthermore, neither Van Heusen nor Almo, either alone or in combination, discloses or suggests a fastening system having a hook or loop component that forms a cavity and also includes a part that can be lifted and folded back by at least about 90 degrees.

For at least the reasons given above, Applicants respectfully submit that the teachings of Van Heusen in view of Almo fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

**C. Van Heusen in view of Almo and further in view of Lacoursiere et al.**

The rejection of Claims 12, 25, and 41 under 35 U.S.C. §103(a) as being unpatentable over Van Heusen in view of Almo and further in view of Lacoursiere et al. (U.S. Patent 5,775,967, hereinafter "Lacoursiere") is respectfully traversed.

As explained above, neither Van Heusen nor Almo, either alone or in combination, discloses or suggests a disposable absorbent article in combination with a hook-and-loop fastening system, nor do either of these references disclose or suggest a fastening system having a hook or loop component that forms a cavity, a part of which can be lifted and folded back by at least about 90 degrees.

Lacoursiere discloses a non-disposable, personal floatation device for babies. The device includes Velcro® strips on head support panels and on pant panels for adjustment purposes. The Velcro® strips are simply strips or patches and there is no suggestion to form a cavity or pocket with the Velcro® strips because a cavity would inhibit the adjustment feature.

The Examiner suggests that it would have been obvious to modify the fastener of Van Heusen to be included in the diaper swimsuit as taught by Lacoursiere to provide an adjustable swimsuit to secure a baby in various comfort positions, and that the adjustable swimsuit can be lengthened to accommodate a growing baby when engaging in water activities. To the contrary, such a modification would defeat or substantially diminish the purpose of the fastening device described in Van Heusen. More particularly, Van Heusen does not provide an adjustable-length fastening system, but instead provides a secure fastening system in lieu of buttons that can withstand wear and tear. As the Examiner will appreciate, it is not obvious to modify a primary reference in a manner that defeats or substantially diminishes its purpose and function. An obviousness rejection that requires such a modification to a primary reference is improper.

Since the fastening components in Lacoursiere are adjustable-length fastening components lacking any sort of cavity or pocket component, and the fastening components in Van Heusen include a pocket-type receiving component and are not adjustable in length, there is no suggestion to combine any aspect of the fastening components in Lacoursiere with the fastening components in Van Heusen. Furthermore, because the fastening components in Van Heusen lack the adjustable-length versatility of the fastening components in Lacoursiere, there is no suggestion to apply the fastening components of Van Heusen to the swimsuit of Lacoursiere.

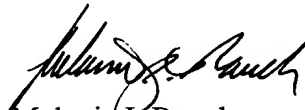
Additionally, even if the fastening components in Van Heusen were combined with the storage pack in Almo and the fastening components in Lacoursiere, the resulting combination would fail to disclose or suggest Applicants' claimed invention because neither Van Heusen nor Almo nor Lacoursiere, alone or in any combination, discloses or suggests a fastening device including a component having a cavity therein and a portion that can be lifted and folded back by at least about 90 degrees. In fact, as noted above, Van Heusen teaches away from the receiving element having any portion that can be lifted and folded back by 90 degrees or more.

For at least the reasons given above, Applicants respectfully submit that the teachings of Van Heusen in view of Almo and further in view of Lacoursiere fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

**Conclusion**

Applicants believe that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicants' undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Melanie I. Rauch", is written over the printed name.

Melanie I. Rauch  
Registration No. 40,924

Pauley Petersen & Erickson  
2800 West Higgins Road, Suite 365  
Hoffman Estates, Illinois 60195  
(847) 490-1400  
FAX (847) 490-1403